



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 21 2016

William L. Brown

Traverse City, MI 49685

RE: MUR 6877

Dear Mr. Brown:

The Federal Election Commission reviewed the allegations in your complaint received on October 3, 2014. On June 15, 2016, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close its file in this matter. Accordingly, the Commission closed its file in this matter on June 15, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Report is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Daniel A. Petalas
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure

General Counsel's Report

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SENSITIVE

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BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 6877

Complaint Receipt Date: October 3, 2014

Response Date: October 20, 2014

Respondents: Ellis Boal; Friends of
Ellis Boal; Ellis Boal
for Congress

**Alleged Statutory/
Regulatory Violations**

26 U.S.C. § 6113 (IRS Disclaimer Notice)
52 U.S.C. § 30116(a), (f)
52 U.S.C. § 30120(a)
11 C.F.R. § 110.11

The Complainant alleges that the 2014 congressional campaign of Ellis Boal, though its website, sought contributions but omitted allegedly required information. Specifically, the Complainant asserts that the solicitations omitted information "as regards the tax deductibility" of contributions¹ and failed to state the "limits of legal or appropriate potential donation amounts." The Response asserts that neither the campaign's total contributions nor expenditures exceeded the "FEC thresholds of \$2600 or \$5000," thus, Beal was not yet a "candidate" under the Act, and there could be no violation of "any campaign finance law." The Commission's website discloses no filings by Mr. Boal or any committee affiliated with his 2014 campaign.² He did, however, receive about 1% of the vote in the Michigan 1st district general election.³

¹ The Commission does not have jurisdiction over 26 U.S.C. § 6113, which pertains to the disclosure of the non-tax deductibility of certain contributions. Therefore, we make no recommendation regarding this allegation.

² An individual does not become a "candidate" under the Act and incur registration and committee reporting requirements until, *inter alia*, he or she has received contributions or made expenditures aggregating in excess of \$5,000. 52 U.S.C. § 30101(2)(A); 11 C.F.R. § 100.3(a)(1).

³ See <http://www.fec.gov/pubrec/fe2014/2014house.pdf>.

1 The Act and Commission regulations prohibit individuals from making contributions to
2 any candidate and his or her authorized committees in excess of \$2,600 per election during the
3 2013-2014 election cycle. *See* 52 U.S.C § 30116(a)(1)(A), 11 C.F.R. § 110.1(b)(1). *See also*
4 52 U.S.C. § 30116(f), 11 C.F.R. § 110.9 (prohibiting candidates and committees from knowingly
5 accepting contributions that exceed the limit). In this case, Boal denies accepting excessive or
6 prohibited contributions, and we have no information to the contrary. And even assuming that
7 Boal had crossed the Act's candidacy thresholds during the 2014 election cycle, the screenshots
8 of Boal's website (attached to the Complaint) appear to contain a proper disclaimer for an
9 authorized committee. Boal asserts that he sought required contributor information, and he
10 amended his website to clarify that he was seeking only contributions that complied with the
11 Act.⁴

12 Based on its experience and expertise, the Commission has established an Enforcement
13 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
14 assess whether particular matters warrant further administrative enforcement proceedings. These
15 criteria include: (1) the gravity of the alleged violation, taking into account both the type of
16 activity and the amount in violation; (2) the apparent impact the alleged violation may have had
17 on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent
18 trends in potential violations and other developments in the law. This matter is rated as low
19 priority for Commission action after application of these pre-established criteria. Given that low
20 rating and the other circumstances presented, we recommend that the Commission dismiss the
21 allegations consistent with the Commission's prosecutorial discretion to determine the proper
22 ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32

⁴ *See* 11 C.F.R. §§ 110.11, 104.7 (disclaimer requirements for political committees and solicitations).

(1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

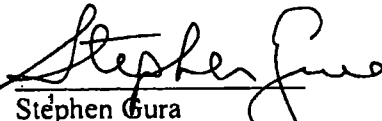
Daniel A. Petalas
Acting General Counsel

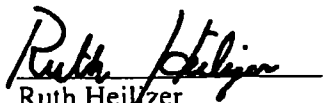
Kathleen M. Guith
Acting Associate General Counsel
for Enforcement

6.6.16

Date

BY:


Stephen Gura
Deputy Associate General Counsel
Enforcement


Ruth Heilizer
Attorney
Complaints Examination
& Legal Administration